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COMMITTEE ON THE RIGHTS OF THE CHILD

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SUMMARY RECORD OF THE SECOND PART (PUBLIC)* OF THE 98th MEETING

Held at the Palais des Nations, Geneva
on Tuesday, 5 October 1993, at 3 p.m.

Chairperson: Mrs. BADRAN

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* The summary record of the first part (closed) appears as document CRC/C/SR.98.

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The public meeting was called to order at 3.40 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 44 OF THE CONVENTION (agenda item 8) (continued)

Report of Rwanda (CRC/C/8/Add.1) (continued)

1. The CHAIRPERSON invited the Rwandese delegate to respond to the list of issues (CRC/C/3/WP.4), starting with the section entitled "General principles". The issues were as follows:

"General principles

As this aspect is not dealt with in the report (except with regard to article 6 (right to life, survival and development)),

1. Please provide information on the main measures taken and the factors and difficulties which the Government has encountered, or the progress achieved concerning:

The principle of non-discrimination;

The best interests of the child;

Respect for the opinions of the child,

either in legislation or in practice, including judicial decisions.

2. With regard to the right to life, please indicate:

Whether the death penalty has been imposed on minors of less than 18 years of age, in how many cases and for what reasons;

What is the child mortality rate and what measures have been taken to reduce it;

What are the circumstances in which the situation referred to in paragraph 4 (c) of the report arises, i.e. the obligation of children to feed their parents and ascendants if they are in need; please provide clarification on the age of the children in question, on the penalties applicable if the child is unable to provide food, and on any relevant court decisions."

2. Mr. KARAMAGE (Rwanda), referring to the main measures taken with regard to non-discrimination, said that in addition to the poverty facing Rwandese children, there was a high rate of illiteracy, particularly among girls, a considerable disparity in the enrolment rate in schools between boys and girls and a disproportionate access to family resources. That situation was partly due to the ignorance of parents who wanted girls to remain at home for domestic work. Rwanda considered children to be sacred, hence the high birth rate, but in poor families the child might be considered a burden.

3. The child's best interests were taken into consideration in cases of divorce or separation, for example, or where children stood to inherit parental property.

4. Respect for the opinions of the child was a principle that had been established with the ratification of the Convention.

5. With regard to the right to life and the death penalty, no death sentence had ever been passed on a child under the age of 18. For offences such as patricide, which carried the death sentence, the maximum sentence awarded to a child would be imprisonment for a period of between 10 and 20 years, although extenuating circumstances, particularly the age of the child would be taken into account. In 90 per cent of cases the death penalty was commuted to life imprisonment.

6. With regard to the child mortality rate, the Ministry of Planning had in September 1992, adopted the Plan of Action for the Survival, Protection and Development of the Child, and the National Programme for Social Action entitled "Food security and social action" had been prepared in conjunction with the International Development Association (IDA) and financed through a credit agreement between the Rwandese Government and the IDA.

7. National targets for the year 2000 included: a reduction of the infant mortality rate by 90 per cent as compared with the 1990 rate; the drinking water supply to be extended to 80 per cent of the population and sanitation coverage to 70 per cent; an increase in school enrolment to 70 per cent of children in the 7 to 14 age group, and a reduction in illiteracy to 39 per cent. It was also planned, with the assistance of the World Health Organization, to extend immunization coverage to all children. Health programmes would be stepped up to combat diarrhoeal diseases, acute respiratory infections, severe malnutrition, and HIV infection in the 15 to 20 year age group, as well as to eliminate tetanus and poliomyelitis.

8. Children between the ages of 18 and 20 were under the obligation to support their parents and ascendants where they had the resources to do so.

9. Mr. HAMMARBERG asked whether the documents mentioned by the delegate of Rwanda could be made available to the Committee.

10. Mr. KARAMAGE (Rwanda) confirmed that the Plan of Action for the Survival, Protection and Development of the Child and the National Programme for Social Action would be forwarded to the Secretariat.

11. Mr. MOMBESHORA, noting the target figures with interest, asked whether any information was available on progress so far and whether any monitoring mechanisms had been set up, particularly in regard to immunization.

12. Mr. KARAMAGE (Rwanda) said the Ministry of Health had supplied him with statistics on immunization for 1990 and projections for 1994 and 2000. It might be possible to transmit current figures to the Secretariat within the coming months.

13. Mrs. BELEMBAOGO noted that while Rwanda attached great value to children, existing legislation seemed to differentiate between children born in and those born out of wedlock. She hoped that that aspect would be examined when consideration was given to ensure that national legislation was in conformity with the provisions of the Convention.

14. Mr. KARAMAGE (Rwanda) said that the distinction between children born in and out of wedlock was purely legal and did not affect the interests of the child. Children born out of wedlock were entitled to seek recognition of paternity and had the same rights as those born in wedlock.

15. Mrs. SARDENBERG expressed her disappointment at the rather scant information provided in the report, particularly in light of the fact that Rwanda, which had also ratified a considerable number of other human rights instruments, had submitted timely reports in accordance with the relevant guidelines to other human rights treaty bodies. She therefore hoped that additional information would be forthcoming on the rights of the child.

16. Concerning the discrimination between girls and boys in relation to education, she asked whether the Government intended to address the issue. Referring to paragraph 4 (c) of the report (CRC/C/8/Add.1), and in the context of the principle of the best interests of the child, she asked at what age penalties were applicable in the event of a child failing to meet his obligation to provide food to parents and ascendants.

17. Mr. KARAMAGE (Rwanda) said that discrimination in education was a result of traditional attitudes. However, it was being overcome by a vigorous campaign being conducted at all levels to persuade parents of the need for boys and girls alike to be educated. The obligation to feed parents and ascendants was essentially a civil matter and he was not aware of any specific penalties in the event of failure to do so. Children had that obligation from the age of 18 - the age at which they could take up employment - but there could obviously be no obligation if a child did not have the resources to feed parents or ascendants.

18. Miss MASON noted that only 44 per cent of unions were legal marriages and that children born in wedlock had more privileges than those born out of wedlock. In that context, she referred to the discussion at the previous meeting concerning the danger inherent in societal discriminatory practice. It would be useful to know to what extent the best interests of the child were taken into account in relation to questions of divorce and consequent custody of and maintenance for children. Did divorce legislation go so far as to stipulate that a divorce could only be pronounced when issues relating to those aspects had been resolved?

19. Mr. KARAMAGE (Rwanda) said that in the event of divorce the best interests of the child were taken into account and that custody was awarded to the parent having the means to support the child.

20. Mrs. SANTOS PAIS observed, firstly, that the fact of differentiating in legal instruments between children born in and those born out of wedlock could give rise to discriminatory attitudes. Moreover, from the legislative point of view, such a distinction could have an effect on questions of inheritance

and on economic and material responsibilities to children. Secondly, referring to national identity cards, she asked whether the name of the child's father and mother were included on the card and whether it also included details of whether a child had been born in or out of wedlock. She further noted that for many years the ethnic origin of the holder had been included in identity cards. She wondered whether such inclusion might not perpetuate discrimination and trigger off new conflict situations in the future.

21. Mr. KARAMAGE (Rwanda) said, concerning the distinction made between a child born in and a child born out of wedlock, that no difference was made in practice as far as the protection of the child was concerned. While traditional attitudes might mean that a distinction might be made within the family and that the child might feel the stigma of illegitimacy, there was no legal distinction in relation to such matters as inheritance. Existing national provisions were a legacy from colonial legislation and the time had probably come to amend them in order to eliminate such a distinction. On the question of identity cards, there was no mention on such documents of whether a child was born in or out of wedlock. Mention of ethnic origin had previously been made but with the signing of the peace treaty it had been agreed that such an entry would no longer be made on official documents. However, the fundamental problem transcended that of the data to be included on an identity card and had its roots in the cast of mind of Rwandese society. The Government was committed to a campaign to inform people of such issues and, specifically, to promote acceptance of the return of refugees - many of whom had spent years outside Rwanda - irrespective of their ethnic origins.

22. Mr. KOLOSOV, also referring to the distinction made in national legislation between the child born in and the child born out of wedlock, pointed to the discrepancy between that legislation and article 2, paragraph 1, of the Convention. On the question of official documents, noting that a child assumed the nationality of the father, he asked whether, in cases where the father was unknown, the child would automatically be without a nationality.

23. Mr. KARAMAGE (Rwanda) said that while a child born out of wedlock had the same rights as a child born in wedlock, he or she might suffer psychologically from not being recognized as a legitimate child. On the question of nationality, a child born out of wedlock of an unknown father would take on the mother's nationality upon registration.

24. Mr. MOMBESHORA asked whether, following the peace settlement made after the years of conflict, the Government was taking any measures, other than the campaign referred to by the delegate of Rwanda, to ensure that children of minority groups were not discriminated against in education and other areas.

25. Mr. KARAMAGE (Rwanda) pointed out that the peace agreement had been reached only some two months previously and that attention had so far been concentrated on the return of refugees. The Government was making efforts to ensure that the population was familiar with the contents of the six protocols to the peace treaty - one of which concerned the rule of law and the elimination of discrimination at all levels - but had not so far taken other specific measures.

26. Miss MASON asked whether, in the event of divorce, custody was granted solely on the basis of a parent's financial means to support a child. Did the possibility exist of custody being awarded to both parents, with the child residing with one of them? Was there a possibility of a child being placed in the custody of the mother, regardless of the child's age, and of maintenance payments being made by the father?

27. Mr. KARAMAGE (Rwanda) said that the means taken into consideration and the award of custody were both material and moral; the former was not the sole deciding factor. In the event of divorce, the right of the parent not awarded custody to have access to the child was safeguarded in an effort to ensure that the child did not suffer unnecessarily from the break-up of the marriage.

28. Mrs. EUFEMIO, referring to the rights of the child to life, survival and development, noted that the targets for the year 2000 referred to by the delegate of Rwanda were quite ambitious but that at the same time there had been no increase in resources allocated for such purposes over the past two years. Were appropriate budgetary resources expected to be allocated in order to meet the targets in health, education and other fields, and what international assistance was expected to be forthcoming?

29. Mr. KARAMAGE (Rwanda), said that there had not, in fact, been any increase in expenditure on social programmes over the past two or three years as a result of Rwanda's recent exceptional difficulties. Concerning the target figures given for the year 2000, he had no statistics to prove that they were correct or that the programme would be a success; like all projections, they were based on expectations of national capability. Part of the resources needed would come from Rwanda itself and the rest from international aid, but he had no figures on what the percentage of each would be.

30. The CHAIRPERSON invited the delegation of Rwanda to reply to the questions in the section entitled "Civil Rights and freedoms", which read as follows:

"Civil rights and freedoms

As this aspect is dealt with very briefly,

1. Please provide further information, particularly regarding the right to a name, nationality and identity (para. 16 of the report);

2. Please indicate the legal provisions, and administrative and other measures concerning the exercise of those rights;

3. Please provide information on:

Preservation of identity,

Freedom of expression,

Access to information,

Freedom of thought, conscience and religion,

Freedom of association and peaceful assembly,

Protection of privacy (art. 37 (a)).

4. With regard to the right not to be subjected to torture or cruel, inhuman or degrading treatment, please clarify the information provided in paragraphs 20 and 25 of the report to the effect that this principle is embodied in the Penal Code and 'these are preventive criminal measures', and indicate in particular:

Whether the Penal Code prohibits torture,

Whether there have been cases of children being tortured,

In cases of torture, what the available remedies are,

Whether campaigns against torture are conducted,

Whether those responsible for acts of torture are punished."

31. Mr. KARAMAGE (Rwanda), replying first to question 1, said that parents were under an obligation to give a name to their children; that was a child's inalienable right. A change of name required the authorization of the Ministry of Justice. As to nationality, all children born of a Rwandese father, for whom Rwandese citizenship has been established, had Rwandese nationality. Identity included a name and a known domicile. With regard to question 2, there was no particular legislation to ensure application of the above-mentioned principles. Turning to question 3, he said that the rights and freedoms enumerated therein were recognized by the Rwandese Constitution, as amended following the recent peace agreement. On question 4, he said that the prohibition of torture had been introduced into national legislation following the ratification by Rwanda of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The Convention against Torture complemented Rwanda's Penal Code. National radio had broadcast information on the Convention against Torture, and human rights groups had been conducting awareness campaigns.

32. Mrs. SANTOS PAIS said that she would refrain from broaching issues of nationality, although she shared Mr. Kolosov's concern in that regard. Given the long period of conflict in Rwanda and the large numbers of abandoned children and orphans, she asked what was done to ensure that they were registered and were given a name, in keeping with the need to respect their best interests. According to the information received on the Plan of Action, for the Survival, Protection and Development of the Child, the name on the identity card was usually provided by the father, and the child's name was registered in the father's identity card. She therefore gathered that the child did not have its own identity card. As the number of children born out of wedlock was very high, if the father was unknown, presumably the child's name was placed in the mother's identity card. She wondered what the procedure was for abandoned children or orphans: a child without an identity card might be refused hospital care, schooling or, later, the right to vote.

33. Mr. KARAMAGE (Rwanda) said that with regard to registering a birth, no law prescribed what name must be given. In Rwanda, the child could be given the name of the father or of the mother, or even another name. Once the parents had agreed upon a name, the father registered the child. The child had no identity card until the age of 14, whereupon its name was stricken from the identity card of the parent. The fact that the name of the child appeared in the father's identity card did not prejudice the mother's rights with regard to the child: both parents had equal rights and obligations. If the father was unknown, the mother registered the child, whose name was placed in her identity card. But that did not deprive the child of the right to a name or to Rwandese nationality.

34. When, at the age of 14, the child received an identity card, it could request a change of name, but the name given had no impact on the conferring of nationality.

35. With regard to the problems faced by children who had been victims of the war, his Government had a special programme to provide aid to orphans, who had priority for attending schools, and to render assistance to pregnant mothers and mothers with babies.

36. The CHAIRPERSON asked how inheritance could be proved if the child did not necessarily bear the name of either the father or the mother.

37. Mr. KARAMAGE (Rwanda) said that when the child's birth was registered, the names of the parents were recorded. If the child was born out of wedlock and thus registered by its mother, it had the right to inherit from her. He pointed out that the registration of birth took place in the presence of a witness.

38. Mrs. BELEMBAOGO was concerned about the impact of the war on the situation of children and asked what measures had been taken by the Government to care for abandoned children and orphans and to ensure their social reintegration.

39. Recalling that the Convention on the Rights of the Child provided that children should not be subjected to cruel, inhuman or degrading treatment, she raised the question of the rape of young girls by soldiers during Rwanda's recent difficult past. She inquired whether it was planned to conduct investigations to identify the persons responsible and, where necessary, to punish them and whether preventive measures were being contemplated, in particular the training of soldiers, who might otherwise be tempted to continue those practices even in peacetime.

40. Mr. KARAMAGE (Rwanda), replying first to the question on the care of children affected by the war, said that the National Programme for Social Action, which provided for the return and reintegration of displaced persons, had special measures for families with children. Although those measures had not yet been implemented, they remained a matter of high priority.

41. Concerning the rape of young girls by members of the armed forces, Rwanda had undertaken to identify the persons accused, to place them on trial and, where appropriate, to hand down exemplary punishments. He had no figures on

the number of persons placed on trial or sentenced, but the investigations were continuing. As to preventive measures, provisions had been included in the peace agreement to teach members of the armed forces the proper conduct towards the civilian population, whether in time of peace or in time of war.

42. Mrs. SANTOS PAIS said that given the presence of an estimated 1 million displaced persons, it was surprising that Rwanda had not encountered any difficulties in conducting a census of the population or in registering children. It was difficult to believe that the infrastructure of that country was able to meet the needs of the population in that regard. She inquired who registered the child if the child had been abandoned, and how the child knew where it had been born and who its parents were. She asked what information must be included when a child was registered so as to ensure, in accordance with article 8 of the Convention, that the identity of the child, including nationality, name and family relations, was preserved.

43. Mr. KARAMAGE (Rwanda) shared the previous speaker's concern about the situation of orphans and abandoned children. While those children did not have an identity card and might not know where they were born or who their parents were, they were usually part of a given group of displaced persons that had fled from a specific village or region to another. If the administrative structure of the town that they had left was still intact, that identity could be established. If the administrative structure had been destroyed, the problem was more difficult to resolve, but that also applied for adults. Often, the registering official must simply believe the person being registered. The problem was the same whether the child bore the name of its mother or father or not. If the child could state its name, it was believed: there was no other choice. Bearing in mind the country's recent difficulties, he was unable to give a more precise answer to the question raised by Mrs. Santos Pais.

44. Concerning the information contained in an identity card, it included the name of the child, the name of the father, the name of the mother, the place of residence of the parents, the commune and/or prefecture of residence and the authority that had issued the document. A copy of the identity card was kept at the commune of the place of residence.

45. Miss MASON inquired about the registration procedure for persons returning to Rwanda from abroad for purposes of preservation of identity and to facilitate the conduct of a population census. The delegation had referred to persons "born of Rwandese fathers". What was the provision for persons born on Rwandese soil? Was there a special procedure for registering Rwandese children born in rural areas? Was there a fixed time period for registration with sanctions for non-registration or late registration?

46. Mr. KARAMAGE (Rwanda) replied that there was no special procedure for persons returning to Rwanda. No matter where a child was born, the parents had to report the birth to the nearest registry official: the Rwandese Embassy if the birth occurred abroad or the nearest commune if the birth occurred in Rwanda. If a child was born on Rwandese soil of a foreign father and a Rwandese mother, the child would automatically take the father's nationality rather than Rwandese nationality. There was no special procedure for registering children born in rural areas. The smallest administrative

unit was the "cell", consisting of 50 families. If a family could not afford to make a trip to the nearest commune, it would delegate the cell leader to register the birth of a child. The time-limit for registration was eight days after birth. Administrative sanctions were applied in the event of failure to register.

47. Mr. KOLOSOV drew attention to the fact that article 7 of the Convention accorded children the right to acquire a nationality and imposed a duty on States parties to ensure implementation of that right, in particular where the child would otherwise be stateless. There were basically two principles governing birth registration and nationality: jus sanguinis (the principle that a person's nationality at birth was the same as that of his or her natural parents and jus soli (the principle that a person's nationality at birth was determined by the territory within which he or she was born). Rwanda had stated in its report that it had given effect to article 7 in the Civil Code that entered into force on 1 May 1992, a date subsequent to Rwanda's ratification of the Convention. However, the principle of jus sanguinis had not been amended to avoid cases of statelessness.

48. Mr. KARAMAGE (Rwanda) said that he believed there was a typing error in the report and that the Civil Code had in fact entered into force on 1 May 1990.

49. Mr. KOLOSOV pointed out that if, under the existing circumstances, a child were born of a foreign father and a Rwandese mother on Rwandese soil and the principle of jus soli were applied in the father's native country, the child in question would have no nationality. Was there any intention to amend the existing legislation?

50. Mr. KARAMAGE (Rwanda) replied that he knew of no such initiative. However, in the hypothetical case described, the parents could apply for Rwandese nationality for the child. It was admittedly a lengthy procedure but the possibility did exist.

51. Mr. KOLOSOV said that there was a simple solution. Jus sanguinis could be extended to include the mother's nationality as well as that of the father. He drew attention to the existence of the Convention on the Nationality of Married Women, under which a woman could not be deprived of her nationality as a result of marriage, and recommended that Rwanda become a State party to that Convention.

52. Mr. HAMMARBERG asked the delegation whether it thought that, in the light of the brevity of the report written under difficult circumstances of civil conflict and the Committee's feeling that it had been unable to do justice to the situation in Rwanda in the absence of more detailed information, it might be of benefit to both parties if a more constructive discussion based on more comprehensive data were to be arranged at a later stage.

53. Mgr. BAMBAREN GASTELUMENDI complained at the paucity of the information provided in the report. For example, the right of the child to be protected in armed conflicts had been given only four lines' coverage. No pertinent figures had been given in the section dealing with the right to survival and to health, although the figures for the infant mortality rate and the number

of children dying of AIDS and malnutrition were extremely disquieting. He noted also that an increasing number of children were being born out of wedlock. He recommended that any future report should be prepared by a joint body representing both governmental and non-governmental organizations so that it reflected the prevailing circumstances more accurately.

54. Mrs. SANTOS PAIS commended the delegation's openness and willingness to enter into dialogue with the Committee. However, if the Committee were to help Governments and especially children, it needed to have access to a wide range of reliable data. A new era of hope was beginning in Rwanda and it would be particularly interesting to know how the country was benefiting from the new possibilities afforded by a peaceful environment. The Committee would be more than willing to offer guidance to the Rwandese authorities with a view to obtaining more wide-ranging information in due course.

55. Mr. KOLOSOV said that reports drafted by Ministries of Foreign Affairs tended to be politically oriented documents and were rarely an accurate reflection of reality. He recommended to the Rwandese Government that it set up a multidisciplinary coordinating body to draft a comprehensive report for the Committee.

56. Mr. MOMBESHORA said that in order to engage in a fruitful dialogue the Committee needed a report that reflected the real-life situation in Rwanda and described the programmes that were envisaged with a view to complying with the Convention on the Rights of the Child.

57. Mrs. EUFEMIO pointed out that a realistic plan aimed at specific targets had to be accompanied by a corresponding budget. She hoped that the next report would be more realistic in terms of budget commitments and that all available funding sources would be used, including non-governmental organizations and international bodies.

58. Mrs. SARDENBERG suggested that a new report should address such pressing issues as low life expectancy, the high infant mortality rate, the need for food aid and access to drinking-water, protection against unemployment, the problems of displaced persons and the low literacy ratio among girls. On the basis of the clearer picture of the situation of children that would emerge from such data, the Committee could assist both in implementing the Convention and in improving the quality of life in Rwanda through international cooperation.

59. The CHAIRPERSON said that the Committee appreciated the fact that Rwanda had ratified the Convention, submitted its report on time and sent a delegation to respond to the Committee's questions. It also understood the difficulties that the country was facing in translating political will into practical programmes. However, the report did not provide the Committee with the necessary basis for monitoring the situation and helping to improve it. She therefore suggested that, if the delegation agreed, a new report based on the General guidelines regarding the form and content of initial reports to be submitted by States parties under article 44, paragraph 1 (a) of the Convention (CRC/C/5) should be submitted within a year and that a further meeting should be held to continue the dialogue in the light of that report.

60. Mr. KARAMAGE (Rwanda) acknowledged that the report fell short of the Committee's expectations in terms of the practical information needed for the implementation of the Convention. Rwanda's difficulties over the past three years stemming from war and its repercussions had hampered the Government's efforts to produce a more helpful document. Thanking the Committee for its understanding and indulgence, he said that he would transmit its concerns to his Government so that steps could be taken to prepare a more comprehensive report in the time suggested by the Committee.

The meeting rose at 6.05 p.m.